MONTANA ADMINISTRATIVE REGISTER

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ISSUE NO. 18

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULES I through XIII and the amendment of ARM 12.9.1401 pertaining to grizzly bears	))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On October 20, 2023, at 9:00 a.m., the Fish and Wildlife Commission (commission) will hold a telephonic public hearing via the ZOOM meeting platform to consider the proposed adoption and amendment of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone: +1 206 337 9723
Meeting ID: 819 7121 7560
Passcode: 141764

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Fish, Wildlife and Parks (FWP), no later than 5:00 p.m., on October 6, 2023, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Montana Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I (ARM 12.9.1404) DEFINITIONS (1) "Authorized person" means any individual given written or verbal authority by the livestock owner, or who is authorized by name on a permit to take a grizzly bear. This does not include department staff or wildlife services' staff.

(2) "Confirmed grizzly bear mortality" means a situation where a grizzly bear carcass is present.

(3) "Demographic monitoring area" or "DMA" is the area within which the grizzly bear population is monitored, where population estimates are derived, and within which the mortality threshold will apply.

(4) "Department" means Montana Fish, Wildlife and Parks.

(5) "Department director" means Montana, Fish, Wildlife and Parks' director or the director's designee.

(6) "Investigate" or "investigation" means a fact-gathering and analytical activity conducted to determine the facts relating to a reported incident and to assess a fitting non-lethal or lethal management response.

(7) "Non-lethal measures" means actions that are not intended to injure or kill a grizzly bear.

(8) "Preventative measures" means actions that are intended to prevent or reduce conflict.

(9) "Probable grizzly bear mortality" means a situation where there is sufficient evidence of grizzly bear blood, hair, and other grizzly bear tissues, to support a finding of death.

(10) "Take" or "taken" means the killing of a grizzly bear by firearm.

(11) "Wildlife services" means the United States Department of Agriculture – Animal and Plant Health Inspection Service.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE II (ARM 12.9.1405) GRIZZLY BEAR MANAGEMENT OBJECTIVE (1) The department will implement management strategies to ensure that grizzly bears continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The department will manage grizzly bears to ensure that recovery is maintained. The department's grizzly bear management objective is to maintain and enhance Montana's contribution to the grizzly bear population in the lower-48 states and the grizzly bear's connectivity between populations in and outside Montana.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, 87-5-301, MCA

NEW RULE III (ARM 12.9.1406) THE QUOTA AND ESTABLISHING AND ADJUSTING THE QUOTA (1) For each delisted ecosystem, the commission will establish an annual quota for the number of delisted grizzly bears that may be taken by a livestock owner or other authorized person, whether permitted or not, pursuant to 87-5-301, MCA. The commission shall consider relevant factors, including information provided to the commission by the department in the grizzly bear annual report, the most recent grizzly bear population estimate, the mortality threshold, and previous quotas.

(2) Grizzly bears taken by the department, wildlife services, or an individual person in self-defense do not count towards the quota.

(3) Information concerning the quota will be made public via the department's website.

(4) When the quota is met, the department will make a public announcement, via its webpage and social media page. The quota will officially close at 11:59 p.m., the same day the department's notice is made.

(5) Any individual who takes a grizzly bear after the quota is closed may be subject to criminal penalties, pursuant to 87-6-201, 87-6-413, 87-6-905, and 87-6-907, MCA, as applicable, and the deceased bear(s) will be recognized in determining the next year's available quota.

(6) If the commission determines that circumstances require an adjustment to the total number of grizzly bears taken, pursuant to 87-5-301(3), MCA, then it may, at any time prior to the quota being met, adjust the quota.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE IV (ARM 12.9.1407) THE MORTALITY THRESHOLD (1) The mortality threshold(s) is/are the maximum annual number of grizzly bear mortalities, within the DMA, that the population(s) can withstand without falling below recovery levels.

(2) All grizzly bear mortalities within the DMA will count toward the relevant mortality threshold(s).

(3) Information concerning the mortality threshold will be made public via the department's website.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE V (ARM 12.9.1408) GRIZZLY BEAR MORTALITIES THAT APPLY TO THE QUOTA AND THE MORTALITY THRESHOLD (1) A delisted grizzly bear taken within the DMA, pursuant to 87-5-301(3) and (4), MCA, counts towards the quota and the relevant mortality threshold.

(2) The quota and the total mortalities counted towards the mortality threshold include confirmed or probable grizzly bear mortalities.

(3) If a female grizzly bear with a cub or cubs of the year is taken, both the female grizzly bear and the cub(s) will count towards the quota. If the mortalities are within the DMA, they will also count towards the mortality threshold.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE VI (ARM 12.9.1409) IF A DELISTED GRIZZLY BEAR POPULATION OVERLAPS TWO OR MORE STATES (1) If a delisted grizzly bear population overlaps two or more states, the mortality threshold will be apportioned by a percentage allocated to each state involved, and the quota will consider the percentage allocated to Montana.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE VII (ARM 12.9.1410) ALLOWABLE LETHAL MANAGEMENT OF THE GRIZZLY BEAR (1) The commission authorizes the department to use lethal control of depredating grizzly bears.

(2) Pursuant to 87-5-301(3), MCA, a livestock owner or other authorized person may take, without a permit or license, a grizzly bear that is attacking or killing livestock. Take by a livestock owner or other authorized person is limited to those areas that a livestock owner's livestock are legally authorized to be.

(3) Pursuant to 87-5-301(4) and 87-6-106(4), MCA, the department director may issue a permit to a person, livestock owner, or other authorized person to take a grizzly bear, under the following circumstances and conditions:

(a) when the department makes the determination that the grizzly bear is threatening livestock or poses a threat to humans;

(b) when the department makes the determination that the grizzly bear was not purposefully or intentionally fed or baited; and

(c) when the bear is threatening livestock on public land, and the livestock owner has demonstrated an effort to utilize non-lethal measures as determined by the department director or designee.

(4) A permit issued pursuant to 87-5-301(4) and 87-6-106(4), MCA, to a person, livestock owner, or other authorized person must identify the following:

(a) the permittee's name;

(b) the permit's duration and expiration date;

(c) the geographic area the permit is valid;

(d) the rationale for issuing the permit; and

(e) that the permit is applicable to one delisted grizzly bear.

(5) If a person, livestock owner, or other authorized person, whether permitted or not, takes or injures a grizzly bear, pursuant to 87-5-301(3) and (4) or 87-6-106(4), MCA, they shall:

(a) notify the department within 24 hours;

(b) leave the grizzly bear carcass, if any, where it lay;

(c) preserve the area the shot was taken from;

(d) preserve the area surrounding the grizzly bear carcass, if any; and

(e) surrender the grizzly bear carcass, if any, to the department.

(6) A person, livestock owner, or other authorized person, who purposefully injures or kills a grizzly bear by any other means, besides a firearm, is subject to criminal penalties, pursuant to 87-6-201, MCA.

(7) Pursuant to 87-5-301(4)(b) and 87-6-106(4), MCA, the department has the discretion to lethally remove a grizzly bear. If a grizzly bear is lethally removed by department or wildlife services' staff, after conducting an on-site investigation, the grizzly bear does not count towards the quota. However, if the lethal removal occurred inside of the DMA, the grizzly bear will count towards the mortality threshold.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE VIII (ARM 12.9.1411) ALLOWABLE NON-LETHAL MEASURES OR PREVENTATIVE MEASURES OF THE GRIZZLY BEAR (1) As allowed by 87-5-301 and 87-6-106(4), MCA, control of the grizzly bear includes a variety of non-lethal measures or preventative measures intended to decrease risk of, prevent, or resolve a conflict without killing the grizzly bear in question. Allowable non-lethal measures or preventative measures include, but are not limited to:

(a) husbandry practices, including, but not limited to, electric fencing, increased human presence, herding, or guarding animals, night pens, carcass removal, alternative pastures, amended pasture or grazing rotations, or supplemental feed;

(b) the department's placement of a radio collar to facilitate increased monitoring of the grizzly bear;

(c) hazing in a non-injurious manner;

(d) intentional harassment;

(e) electric fencing of bone yards;

(f) working with interested individual livestock owners and private landowners, watershed groups, interested groups, and state and federal land managing agencies to provide technical assistance and to assist with selection and implementation of proactive non-lethal controls on both public and private lands when and where livestock are present, either seasonally or yearlong; and

(g) the department's capture and relocation of the grizzly bear.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, 87-6-106, MCA

NEW RULE IX (ARM 12.9.1412) BAITING GRIZZLY BEARS AND NORMAL LIVESTOCK OPERATIONS (1) A person may not intentionally bait a grizzly bear. Normal livestock operations are not considered baiting.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, MCA

NEW RULE X (ARM 12.9.1413) REQUIREMENT TO MANAGE ANY DELISTED GRIZZLY BEAR POPULATION FOR FIVE YEARS PRIOR TO A HUNTING OR HARVEST SEASON (1) The department shall manage any delisted grizzly bear population for five years prior to proposing any hunting season or harvest for grizzly bears.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, 87-5-301, MCA

NEW RULE XI (ARM 12.9.1414) GRIZZLY BEAR ANNUAL REPORT

(1) The department shall generate and publish a grizzly bear annual report starting the first year after either the Northern Continental Divide Ecosystem or the Greater Yellowstone Ecosystem is delisted and will continue thereafter.

(2) The grizzly bear annual report will include:

(a) the population estimate and previous year's mortalities for delisted populations;

(b) the methods used by department personnel to monitor grizzly bears and develop population estimates;

(c) information concerning connectivity and genetic exchange between the Northern Continental Divide Ecosystem and the Greater Yellowstone Ecosystem;

(d) description of mortality sources and potential for future population level impacts;

(e) the number, types, and locations of human-bear conflicts; and

(f) outreach and education efforts made by the department.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, 87-5-301, MCA

NEW RULE XII (ARM 12.9.1415) GENETIC AND POPULATION AUGMENTATION (1) Upon delisting, the department shall continue to translocate grizzly bears between the Northern Continental Divide Ecosystem, the Greater Yellowstone Ecosystem, and other grizzly bear populations for genetic and population augmentation. The department will continue to conduct genetic sampling, as necessary, when handling bears, and will analyze those samples to evaluate genetic diversity and connectivity between populations and the need for continued efforts.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, 87-5-301, MCA

NEW RULE XIII (ARM 12.9.1416) DATE OF EFFECT AND APPLICABILITY (1) [NEW RULES I through XIII] only apply to grizzly bear populations that have been delisted by the United States Fish and Wildlife Service and take effect upon the date that said populations are delisted and no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-5-301, MCA

REASON: The department is proposing the new rules, mentioned above, to adhere to the requirements of Senate Bill 295 (2023 Legislature) and to further clarify how Montana will manage delisted grizzly bears for human safety, conflict with livestock, and genetic exchange.

4. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.9.1401 GRIZZLY BEAR POLICY (1) through (1)(b) remain the same.

(c) Hunting and recreational use. The commission recognizes its responsibility to consider and provide for recreational opportunities as part of a grizzly bear management program. These opportunities shall include: sport hunting, when deemed appropriate; recreational experiences~~,~~; aesthetics of natural ecosystems~~,~~; and other uses consistent with the overall welfare of the species.

(i) through (d)(iii) remain the same.

(iv) Grizzly bears ~~committing depredations~~ that do not directly endanger human life but that are causing non-livestock related property losses shall be evaluated on an individual case basis.

(v) through (f) remain the same.

AUTH: 87-1-301, MCA
IMP: 87-1-201, 87-1-301, 87-5-301, MCA

REASON: The department is proposing amendments to this rule to better reflect current practices and to conform with its obligation to manage a delisted

grizzly bear population for five years post-delisting prior to instituting a hunting season.

5. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Wildlife Division, ATTN: Grizzly Bear ARM, Montana Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpwld@mt.gov, and must be received no later than October 23, 2023.

6. Christina Bell or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Montana Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to cbell@mt.gov.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the commission has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

/s/ Lesley Robinson
Lesley Robinson
Chair
Fish and Wildlife Commission

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.4.101, 17.4.301, 17.4.302, 17.4.303, 17.4.304, 17.4.305, 17.4.306, 17.4.307, 17.4.308, 17.4.801, 17.4.803, 17.4.804, 17.8.102, 17.8.103, 17.8.120, 17.8.121, 17.8.221, 17.8.302, 17.8.333, 17.8.602, 17.8.760, 17.8.764, 17.8.767, 17.8.902, 17.8.1002, 17.8.1102, 17.8.1201, 17.8.1202, 17.8.1222, 17.8.1302, 17.8.1402, 17.8.1502, 17.20.1418, 17.38.103, 17.38.104, 17.38.201, 17.38.201A, 17.38.202, 17.38.203, 17.38.204, 17.38.205, 17.38.206, 17.38.207, 17.38.208, 17.38.210, 17.38.211, 17.38.212, 17.38.213, 17.38.214, 17.38.215, 17.38.216, 17.38.217, 17.38.219, 17.38.225, 17.38.227, 17.38.229, 17.38.230, 17.38.231, 17.38.234, 17.38.239, 17.38.244, 17.38.248, 17.38.249, 17.38.261, 17.38.262, 17.38.263, 17.38.264, 17.38.265, 17.38.271, 17.38.301, 17.38.302, 17.38.305, 17.38.310, 17.38.311, 17.38.312, 17.38.501, 17.38.502, 17.38.503, 17.38.510, 17.38.511, 17.38.512, 17.38.513, 17.50.402, 17.50.403, 17.50.410, 17.50.1307, and 17.56.607 and the repeal of ARM 17.4.102, 17.50.101, 17.50.102, 17.50.103, 17.50.104, 17.50.105, 17.50.110, 17.50.111, 17.50.112, 17.50.113, 17.50.118, and 17.50.119 pertaining to transfer of rulemaking authority from the Board of Environmental Review to the Department of Environmental Quality	)	NOTICE OF PROPOSED AMENDMENT AND REPEAL NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On February 9, 2024, the Department of Environmental Quality (department) proposes to amend and repeal the above-stated rules. The department will be submitting a total of four notices for this rulemaking under MAR Notice No. 17-432. This first notice is Notice No. 17-432A, to be followed by Notice Nos. 17-432B, 17-432C, and 17-432D.

2. The Department of Environmental Quality will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Environmental Quality no later than 5:00 p.m. on, November 27, 2023, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-432rulemaking@mt.gov.

3. General Reason Statement: During the 2021 legislative session, the legislature passed Senate Bill 233. Senate Bill 233 reassigned and transferred the rulemaking duties and powers of the Board of Environmental Review to the department. In addition, Senate Bill 233 repealed 75-6-103, 75-10-106, 82-4-111, and 82-4-204, MCA. Through this rulemaking the department will be implementing the 2021 changes to rulemaking authority by striking "board" and changing it to "department." The department will also update the citations to the MCA sections that have been repealed by Senate Bill 233. The department is making these changes to implement the 2021 statutes and to clarify the change of authority to make it easier for the general public and the regulated community to determine the appropriate process and entity for future rulemakings.

4. The department proposes to amend the following rules, new matter underlined, deleted matter interlined. Please refer to the General Reason Statement above.

17.4.101 MODEL RULES (1) The Department of Environmental Quality ~~and the Board of Environmental Review~~ adopts and incorporates the Attorney General's Organizational and Procedural Rules, ARM 1.3.201, 1.3.202, 1.3.211 through 1.3.224, and 1.3.226 through 1.3.233, effective August 15, 2008, and the Secretary of State's Organizational and Procedural Rules, ARM 1.3.101, 1.3.102, 1.3.301, 1.3.302, 1.3.304, 1.3.305, 1.3.307 through 1.3.309, 1.3.311 through 1.3.313, and 44.17.101~~, effective August 1, 2008~~, including the sample forms which follow the Attorney General's model rules, except as modified by (2) and (3), as authorized by 2-4-302, MCA.

(2) The incorporation of ARM 1.3.309 is modified by the addition of the rules in subchapter 2 of this chapter which incorporate requirements of statutes administered by the department ~~and board~~.

(3) and (4) remain the same.

AUTH: 2-4-201, 2-4-202, MCA
IMP: 2-4-201, MCA

17.4.301 PURPOSE (1) through (3) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.302 DEFINITIONS The following definitions apply throughout this chapter:
(1) through (6) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.303 BASE PENALTY (1) through (5) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.304 ADJUSTED BASE PENALTY - CIRCUMSTANCES, GOOD FAITH AND COOPERATION, AMOUNTS VOLUNTARILY EXPENDED (1) through (4) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204~~, 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.305 TOTAL ADJUSTED PENALTY – DAYS OF VIOLATION
(1) and (2) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.306 TOTAL PENALTY – HISTORY OF VIOLATION (1) through (6) remain the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.307 ECONOMIC BENEFIT (1) remains the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.308 OTHER MATTERS AS JUSTICE MAY REQUIRE (1) remains the same.

AUTH: 75-2-111, 75-2-112, 75-2-503, 75-5-201, ~~75-6-103,~~ 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, ~~82-4-111,~~ 82-4-112, ~~82-4-204,~~ 82-4-205, 82-4-321, 82-4-422, MCA
IMP: 75-1-1001, 82-4-1001, MCA

17.4.801 APPLICABILITY (1) The rules in this subchapter apply to a person who submits electronic documents to the department, or to the U.S. Environmental Protection Agency (EPA), pursuant to a specific rule of the ~~board or~~ department or pursuant to a department permit or license condition that allows submission of electronic documents in lieu of paper documents and that requires conformance with this subchapter.

(2) remains the same.

AUTH: 30-18-118, MCA
IMP: 30-18-117, MCA

17.4.803 USE OF ELECTRONIC RECORD RECEIVING SYSTEM (1) If the ~~board or~~ department has adopted a rule, or, if the department has issued a permit or license that includes a provision or condition allowing submission of an electronic record pursuant to this subchapter in lieu of submission of a paper document, a person who submits an electronic record pursuant to the rule, permit, or license shall submit the record to the department's electronic record receiving system that is appropriate for the particular record, or an authorized EPA electronic record receiving system, such as EPA's NetDMR system, that meets the requirements of 40 CFR Part 3, EPA's Cross-Media Electronic Reporting Regulation, and that is appropriate for the particular record

(2) and (3) remain the same.

AUTH: 30-18-118, MCA
IMP: 30-18-117, MCA

17.4.804 ELECTRONIC SUBSCRIBER AGREEMENT (1) Before submitting an electronic record pursuant to a specific rule of the ~~board or~~ department or a department permit or license condition that allows submission of electronic records in lieu of paper documents and that requires conformance with this subchapter, a person shall first execute a written electronic subscriber agreement on a form provided by the department and submit the original signed paper agreement

by U.S. Mail or hand delivery to the department staff member designated in the rule, permit, or license.

(2) and (3) remain the same.

AUTH: 30-18-118, MCA
IMP: 30-18-117, MCA

17.8.102 INCORPORATION BY REFERENCE – PUBLICATION DATES AND AVAILABLITY OF REFERENCE DOCUMENTS (1) Unless expressly provided otherwise in this chapter, where the ~~board~~ department has:

(a) through (4) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, MCA
IMP: Title 75, chapter 2, MCA

17.8.103 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, MCA
IMP: Title 75, chapter 2, MCA

17.8.120 VARIANCE PROCEDURES--INITIAL APPLICATION (1) Initial application for exemption may be in the form of a letter, and must be submitted to the ~~board~~ department with copies sent to ~~the department and~~ the parties. The application must contain or be accompanied by information and data to show that:

(a) through (3) remain the same.

(4) Hearings held pursuant to this subchapter are for the purpose of determining whether the application for exemption should be granted. In making its determination, the ~~board~~ department shall resolve issues raised by parties, and shall consider comments submitted by the general public.

(a) Members of the general public may submit comments concerning the application for exemption. Comments must be submitted in writing to the ~~board~~ department within 20 days after date of publication of public notice pursuant to (3) ~~of this rule~~. If written comments are timely filed, a commenter may orally present those comments to the ~~board~~ department at the hearing.

(b) Any person may submit a request to be a party within 20 days after date of publication of public notice pursuant to (3) ~~of this rule~~. Requests to be a party under this section shall be directed to the ~~board~~ department and shall state:

(i) through (c) remain the same.

(d) MAPA contested case procedures do not apply to that portion of the hearing conducted for the purpose of receiving comments from the general public. The ~~board~~ department may use such public comment procedures as it finds are appropriate under the circumstances of a particular case.

AUTH: ~~75-2-111,~~ 75-2-112, MCA

IMP: 75-2-212, MCA

17.8.121 VARIANCE PROCEDURES--RENEWAL APPLICATION

(1) remains the same.

(2) Public notice of the renewal application shall be given at the applicant's expense immediately prior to the submission of the application, in the following manner:

(a) remains the same.

(b) The notice shall state, in effect, that application is being made to the ~~board~~ department to renew an exemption permit to allow the continued operation of equipment or plant at a specified address, which equipment or plant emits air contaminants not otherwise allowed by rules of the department. The notice shall also state the name and business address of the applicant.

(c) and (3) remain the same

AUTH: ~~75-2-111,~~ 75-2-112, MCA
IMP: 75-2-212, MCA

17.8.221 AMBIENT AIR QUALITY STANDARD FOR VISIBILITY (1) remains the same.

(2) The provisions of (1) are applicable only in Class I areas as are designated under the Montana Clean Air Act rules, Prevention of Significant Deterioration of Air Quality, (ARM Title 17, chapter 8, subchapter 8) on the effective date of this rule. Areas redesignated Class I subsequent to the effective date of this rule shall be subject to the provisions of (1) only upon a finding by the ~~board~~ department that visibility is an important attribute of such area.

(3) remains the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-202, MCA
IMP: 75-2-202, MCA

17.8.302 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-203, MCA
IMP: 75-2-203, MCA

17.8.333 EMISSION STANDARDS FOR EXISTING ALUMINUM PLANTS – MONITORING AND REPORTING (1) For the purpose of this rule the ~~board~~ department ~~hereby~~ adopts and incorporates by reference 40 CFR 60.195update which sets forth test methods and procedures for primary aluminum reduction plants. A copy of this incorporated material may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

(2) through (4) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-203, MCA
IMP: 75-2-203, MCA

17.8.602 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference ARM Title 17, chapter 53, subchapter 5, identifying and defining hazardous wastes.

(2) remains the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-203, MCA
IMP: 75-2-203, MCA

17.8.760 ADDITIONAL REVIEW OF PERMIT APPLICATIONS (1) When an application for a Montana air quality permit requires an environmental impact statement under the Montana Environmental Policy Act, 75-1-101 , et seq., MCA, the procedures for public review are those required by the Montana Environmental Policy Act and the rules adopted by the ~~board and~~ department to implement the Act, ARM Title 17, chapter 4, subchapter 6, and ARM 17.4.701 through 17.4.703

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-204, 75-20-216, MCA
IMP: 75-2-211, 75-20-216, MCA

17.8.764 ADMINISTRATIVE AMENDMENT TO PERMIT (1) The department may amend a Montana air quality permit, or any portion of a permit, for the following reasons:

(a) changes in any applicable rules adopted by the ~~board~~ department;

(b) through (4) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-204, MCA
IMP: 75-2-211, MCA

17.8.767 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-204, MCA
IMP: 75-2-211, 75-2-215, MCA

17.8.902 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1002 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1102 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, MCA
IMP: Title 75, chapter 2, MCA

17.8.1201 DEFINITIONS In this subchapter, unless indicated otherwise, the following definitions apply:

(1) through (22) remain the same.

(23) "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in (23)(a) through (c). For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(a) A major source under section 112 of the FCAA, which is defined as:

(i) for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the FCAA, 25 tons per year or more of any combination of such hazardous air pollutants, or such lesser quantity as the ~~board~~ department may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station are not aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) through (33) remain the same.

AUTH: 75-2-217, MCA
IMP: 75-2-217, 75-2-218, MCA

17.8.1202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: 75-2-217, MCA
IMP: 75-2-217, 75-2-218, MCA

17.8.1222 GENERAL AIR QUALITY OPERATING PERMITS (1) remains the same.

(2) The department may provide for a general permit based upon its own initiative or the application of a source within the source category. The department shall provide a notice and opportunity for public participation, consistent with ARM 17.8.1232. Such procedures may be combined with the rulemaking process before the ~~board~~ department required for the adoption and incorporation by reference of a general permit.

(3) through (5) remain the same.

(6) After a general permit has been proposed by the department and formally adopted by the ~~board~~ department, a source that intends to operate under the terms of the general permit must provide written notice to the department before it may qualify for the general permit, as required by ARM 17.8.1205(3)(d). Such notification shall identify the source, provide information sufficient to demonstrate that the source falls within the source category covered by the general permit and is capable of operating in compliance with the terms and conditions of the general permit, and include any additional information that may be specified in the general permit.

(7) through (11) remain the same.

AUTH: 75-2-217, 75-2-218, MCA
IMP: 75-2-217, 75-2-218, MCA

17.8.1302 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference 40 CFR Part 93, subpart A, which sets forth the conformity to state or federal implementation plans of transportation plans, programs, and projects developed, funded, or approved under Title 23 USC or the Federal Transit Act.

(2) remains the same.

AUTH: ~~75-2-111,~~ 75-2-112, MCA
IMP: 75-2-202, MCA

17.8.1402 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: ~~75-2-111,~~ 75-2-112, MCA

IMP: 75-2-202, MCA

17.8.1502 INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) through (2) remain the same.

AUTH: 75-2-217, 75-2-218, MCA
IMP: 75-2-217, 75-2-218, MCA

17.20.1418 ENERGY GENERATION FACILITIES, BASELINE STUDY, GENERAL REQUIREMENTS (1) through (13) remain the same.

(14) The ~~board~~ department ~~hereby~~ adopts and incorporates by reference department Circular MFSA-1, which sets forth the baseline study requirements and impact assessment to be included in an application for a proposed energy generation and conversion facility and associated facilities. Copies may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

AUTH: 75-20-105, MCA
IMP: 75-20-211, 75-20-213, MCA

17.38.103 PUBLIC WATER AND SEWAGE PROJECTS ELIGIBLE FOR CATEGORICAL EXCLUSION FROM MEPA REVIEW (1) through (4) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.104 SIGNIFICANT DEFICIENCY (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, 75-6-112, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-112, MCA

17.38.201 PURPOSE (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.201A INCORPORATION BY REFERENCE--PUBLICATION DATES AND AVAILABILITY OF REFERENCED DOCUMENTS (1) Unless expressly provided otherwise, in this subchapter where the ~~board~~ department has adopted and incorporated by reference a federal regulation, the reference is to the July 1, 2015, edition of the Code of Federal Regulations (CFR).

(2) through (4) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA

IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.202 DEFINITIONS In this subchapter, the following terms have the meanings indicated below and must be used in conjunction with and supplemental to those definitions contained in 75-6-102, MCA. In addition, the ~~board~~ department adopts and incorporates by reference the definitions in 40 CFR 141.2, except for the following terms: "clean compliance history," "person," "public water supply system (PWS)," "ground water under the direct influence of surface water (GWUDISW)," "special irrigation district," and "state." The terms "person," "public water supply system," "ground water under the direct influence of surface water," and "state," as used in this subchapter and in the portions of 40 CFR Parts 141 and 142 adopted by reference in this subchapter, have the meanings defined below.

(1) through (6) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.203 MAXIMUM INORGANIC CHEMICAL CONTAMINANT LEVELS

(1) The ~~board~~ department adopts and incorporates by reference:

(a) through (d) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.204 MAXIMUM ORGANIC CHEMICAL CONTAMINANT LEVELS

(1) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.61(a), 141.61(c), 141.64(a) and (a)(1), 141.64(b)(1)(i), and 141.64(b)(2)(i), which set forth maximum contaminant levels for synthetic organic contaminants, volatile organic contaminants, and disinfection byproducts.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.205 MAXIMUM TURBIDITY CONTAMINANT LEVELS (1) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.13, 141.73, 141.173, 141.550, and 141.551, which set forth maximum contaminant levels for turbidity, except for the following changes:

(a) through (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.206 MAXIMUM RADIOLOGICAL CONTAMINANT (1) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.66(b), (c), (d), (e), and (f), which set forth maximum contaminant levels for radiological contaminants.

AUTH: ~~75-6-103,~~ 75-6-104, MCA

IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.207 MAXIMUM MICROBIOLOGICAL CONTAMINANT LEVELS

(1) The ~~board~~ department ~~hereby~~ adopts and incorporates by reference 40 CFR 141.63(a), 141.63(b), 141.63(c), and 141.63(d), which set forth maximum contaminant levels for microbiological contaminants.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.208 TREATMENT REQUIREMENTS (1) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.70, which sets forth general surface water treatment requirements, with the following changes:

(a) through (c) remain the same.

(2) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.71, which sets forth requirements for avoiding filtration, except for the following changes:

(a) through (d) remain the same.

(e) The ~~board~~ department ~~hereby~~ adopts and incorporates by reference 40 CFR 141.171, which sets forth requirements, in addition to the requirements in 40 CFR 141.71, for avoiding filtration.

(3) The ~~board~~ department adopts and incorporates by reference 40 CFR 141.72, which sets forth treatment requirements for public water suppliers that use surface water.

(4) The ~~board~~ department adopts and incorporates by reference the following:

(a) through (w) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.210 CONSECUTIVE SYSTEM COVERAGE (1) through (4) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.211 GROUND WATER RULE (1) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, subpart S, except for 40 CFR 141.402(a)(2)(iv), which sets forth the requirements to ensure that systems using ground water sources are adequately protected.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.212 INITIAL DISTRIBUTION SYSTEM EVALUATIONS (1) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, subpart U,

which sets forth the requirements for determining monitoring locations and other requirements for subpart V compliance monitoring.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.213 STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS

(1) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, subpart V, which sets forth the requirements for monitoring and other requirements for achieving compliance with maximum contaminant levels based on running annual averages for disinfection byproducts.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.214 ENHANCED TREATMENT FOR CRYPTOSPORIDIUM (1) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, subpart W, which establishes or extends treatment technique requirements in lieu of maximum contaminant levels for cryptosporidium.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.215 BACTERIOLOGICAL QUALITY SAMPLES (1) remains the same.

(2) The ~~board~~ department adopts and incorporates by reference the table in 40 CFR 141.857(b), which sets forth total coliform monitoring frequency requirements for all public water supply systems serving more than 1,000 people.

(a) through (4) remain the same.

(5) The ~~board~~ department adopts and incorporates by reference the following, which set forth requirements for the revised total coliform rule (RTCR):

(a) through (8) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.216 CHEMICAL AND RADIOLOGICAL QUALITY SAMPLES

(1) and (2) remain the same.

(3) The ~~board~~ department adopts and incorporates by reference the following monitoring and analytical requirements:

(a) through (5) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.217 SAMPLING AND REPORTING RESPONSIBILITY (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.219 SPECIAL SAMPLES (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.225 CONTROL TESTS (1) through (6) remain the same.

(7) The ~~board~~ department adopts and incorporates by reference the following:

(a) through (8) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.227 SPECIAL CONTROL TESTS A special test may be required for a public water supply system exceeding the following amounts:

Constituent Maximum Amount

(1) through (5) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.229 MICROBIAL TREATMENT (1) through (4) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.230 FLUORIDATION (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.231 SANITARY SURVEYS (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.234 TESTING AND SAMPLING RECORDS AND REPORTING REQUIREMENTS (1) through (6) remain the same.

(7) The ~~board~~ department adopts and incorporates by reference the following:

(a) through (10) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.239 PUBLIC NOTIFICATION FOR COMMUNITY AND NONCOMMUNITY SUPPLIES (1) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, subpart Q, which sets forth public notification requirements for drinking water violations.

(2) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141, Subpart O, which sets forth requirements for consumer confidence reports.

(3) The ~~board~~ department adopts and incorporates by reference 40 CFR Part 141.85update, which sets forth the public education and supplemental monitoring requirements for exceedances of the lead action level.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.244 VARIANCES AND EXEMPTIONS (1) The ~~board~~ department ~~hereby~~ adopts and incorporates by reference the following:

(a) through (e) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.248 SERVICE CONNECTION FEES (1) through (9) remain the same.

~~(10) The board shall review the public water supply program, including the service connection fee amounts imposed by this rule, on or before December 26 of each year.~~

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: 75-6-104, 75-6-108, MCA

REASON: Along with the General Reason Statement above, the department is striking (10) because the repeal of 75-6-103, MCA, removed the board's general supervisory authority of public water supply systems.

17.38.249 CERTIFIED OPERATOR AND DESIGNATED CONTACT PERSON (1) through (5) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.261 APPLICATION FOR VARIANCE OR EXEMPTION (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.262 GRANT OF A VARIANCE OR EXEMPTION (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.263 DENIAL OF A VARIANCE OR EXEMPTION (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.264 APPEAL OF A VARIANCE OR EXEMPTION TO THE BOARD (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.265 EFFECTIVE DATE OF VARIANCE OR EXEMPTION (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, 75-6-107, MCA

17.38.271 DEPARTMENT RECORDKEEPING (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.301 DEFINITIONS For the purposes of this subchapter, unless the context requires otherwise, the following definitions, in addition to those in 75-6-102, MCA, apply:

(1) through (11) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.302 INCORPORATION BY REFERENCE (1) The ~~board~~ department adopts and incorporates by reference the "Manual of Cross-Connection Control" (10th edition), published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California (October 2009). This publication sets forth standards for cross-connections to public water supply systems. Copies of this publication may be obtained by contacting the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, Kaperielian Hall 200, Los Angeles, CA 90089-2531 or at ~~http://www.usc.edu/dept/fccchr/~~ https://fccchr.usc.edu.

AUTH: ~~75-6-103,~~ 75-6-104, MCA

IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.305 CROSS-CONNECTIONS: REGULATORY REQUIREMENTS (1) through (6) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.310 VOLUNTARY CROSS-CONNECTION CONTROL PROGRAMS: APPLICATION REQUIREMENTS (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.311 VOLUNTARY CROSS-CONNECTION CONTROL PROGRAMS: PROCEDURE FOR REVIEW OF APPLICATIONS (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.312 VOLUNTARY CROSS-CONNECTION CONTROL PROGRAMS: STANDARDS AND REQUIREMENTS FOR CROSS-CONNECTION CONTROL (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.501 PURPOSE (1) remains the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.502 DEFINITIONS (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.503 EQUIPMENT, SPECIFICATIONS, AND OPERATION (1) through (9) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.510 SANITIZING EQUIPMENT (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.511 WATER SUPPLY (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.512 FILLING POINTS (1) and (2) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.38.513 CHEMICAL TREATMENT OF WATER (1) through (3) remain the same.

AUTH: ~~75-6-103,~~ 75-6-104, MCA
IMP: ~~75-6-103,~~ 75-6-104, MCA

17.50.402 AUTHORITY (1) Authority for rules promulgated in this subchapter is provided for in 75-10-104, 75-10-105, 75-10-115, and 75-10-221, MCA, under which the ~~board~~ department may establish and ~~the department may~~ collect fees for the management and regulation of solid waste disposal. These fees may include:

(a) through (c) remain the same.

AUTH: 75-10-115, 75-10-204, 75-10-221, MCA
IMP: 75-10-115, 75-10-204, 75-10-221, MCA

17.50.403 DEFINITIONS Unless the context requires otherwise, in this subchapter the following definitions apply:

(1) and (2) remain the same.

~~(3) "Board" means the Board of Environmental Review provided for in 2-15-3502, MCA.~~

(4) through (61) remain the same, but are renumbered (3) through (60).

AUTH: ~~75-10-106,~~ 75-10-104, 75-10-115, 75-10-204, 75-10-221, MCA
IMP: 75-10-115, 75-10-221, MCA

17.50.410 ANNUAL OPERATING LICENSE REQUIRED (1) through (7) remain the same.

AUTH: ~~75-10-106,~~ 75-10-104, 75-10-115, 75-10-204, 75-10-221, MCA
IMP: 75-10-115, 75-10-204, 75-10-221, MCA

17.50.1307 ASSESSMENT MONITORING PROGRAM (1) through (8) remain the same.

(9) If the department believes a standard is needed for a constituent or parameter in the alternative list in ARM 17.50.1306(3) for which an MCL or ground

water quality standard has not been established by Montana law or rule, the department shall propose ~~to the Board of Environmental Review established in 2-15-3502, MCA,~~ the adoption of a ground water quality standard for that constituent or parameter. The ground water quality standard proposed must be health-based and set at an appropriate level that satisfies the following criteria:

(a) through (10) remain the same.

AUTH: 75-10-204, MCA
IMP: 75-10-204, 75-10-207, MCA

17.56.607 RELEASE CATEGORIZATION (1) through (9) remain the same.

(10) The department may categorize a release as resolved with a petroleum mixing zone and send a letter to the owner or operator in accordance with (11), if the department has determined that conditions at the site ensure present and long-term protection of human health, safety, and the environment and that residual petroleum in soil and ground water will continue to be remediated through natural attenuation processes without additional intervention, active cleanup, or monitoring. The following requirements must also be met before a release may be categorized as resolved with a petroleum mixing zone:

(a) through (h) remain the same.

(i) at the downgradient boundary of a petroleum mixing zone, the concentration of any petroleum constituent does not exceed a water quality standard adopted ~~by the Board of Environmental Review~~ pursuant to 75-5-301, MCA. The downgradient boundary of a petroleum mixing zone must be determined by documented investigations conducted in accordance with ARM 17.56.604;

(j) through (12) remain the same.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

5. The department proposes to repeal the following rules. Please refer to the General Reason Statement above.

17.4.102 PROCEDURES FOR COMPLIANCE WITH MEPA

AUTH: 2-4-201, 75-1-202, MCA
IMP: 75-1-201, 75-1-202, 75-1-203, 75-1-204, 75-1-205, MCA

17.50.101 DEFINITIONS

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.102 PRE-APPLICATION CONFERENCE

AUTH: 75-10-106, MCA

IMP: 75-10-106, MCA

17.50.103 GENERAL APPLICATION REQUIREMENTS

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.104 FRONT-END PLANNING FUNDS – GRANT APPLICATION AND CRITERIA FOR REVIEW

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.105 FRONT-END IMPLEMENTATION FUNDS – GRANT APPLICATION

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.110 LOAN – ELIGIBILITY REQUIREMENTS

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.111 LOAN APPLICATION

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.112 ORDER OF FUNDING LOANS

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.113 ORDER OF FUNDING GRANTS

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.118 DEPARTMENT APPROVAL OF PROJECT CHANGES

AUTH: 75-10-106, MCA
IMP: 75-10-106, MCA

17.50.119 NONCOMPLIANCE

AUTH: 75-10-106, MCA

IMP: 75-10-106, MCA

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the department, at 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; telephone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-432rulemaking@mt.gov, and must be received no later than 11:59 p.m., December 1, 2023.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the department at the above address no later than 5:00 p.m., November 23, 2023.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 259 persons based on the interested parties list of 2,591 individuals.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 6 or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at http://sosmt.gov/ARM/Register.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by mail on July 5, 2023.

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ *Angela Colamaria*
ANGELA COLAMARIA
Rule Reviewer

/s/ *Christopher Dorrington*
CHRISTOPHER DORRINGTON
Director
Department of Environment Quality

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I and the amendment of ARM 23.12.201 pertaining to criminal history information provided by the department to qualified entities	)))))	NOTICE OF PROPOSED ADOPTION AND AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On October 23, 2023, the Department of Justice proposes to adopt and amend the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Justice no later than 5:00 p.m. on October 6, 2023, to advise us of the nature of the accommodation that you need. Please contact Anne Dormady, Department of Justice, 2225 11th Avenue, Helena, Montana, 59601; telephone (406) 444-9759; fax (406) 444-0689; or e-mail adormady@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ACCESS TO CRIMINAL HISTORY INFORMATION PROVIDED BY THE DEPARTMENT TO QUALIFIED ENTITIES (1) A qualified entity shall register with the department before submitting a request for screening under this rule per the following conditions:

(a) each request shall be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended;

(b) the qualified entity shall agree to comply with state and federal law and shall so indicate by signing an agreement approved by the department; and

(c) the department may periodically audit qualified entities to ensure compliance with federal law and this rule.

(2) A qualified entity shall submit a request to the department for screening of an employee, volunteer, or person applying to be an employee or volunteer, by submitting fingerprints. The qualified entity must maintain a signed waiver allowing the release of the state and national criminal history record information to the qualified entity.

(3) Each request shall be accompanied by the fee authorized by 44-5-307, MCA, plus the amount currently prescribed by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended.

(4) The department shall provide directly to the qualified entity the state criminal history records that are not exempt from disclosure under 44-5-103(3), MCA, or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in 44-5-215, MCA.

(5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity. This rule does not require the department to make such a determination on behalf of any qualified entity.

(6) The qualified entity shall notify in writing the person's right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any report and to obtain a determination as to the validity of the challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening.

AUTH: 44-5-105, MCA
IMP: 44-5-105, MCA

REASON: The federal government now requires states with a Volunteer and Employee Criminal History System (VECHS) Program to have either a state statute or rule in place to allow eligible entities to conduct federal criminal record checks on individuals such as employees, volunteers, contractors, and vendors who will have ongoing unsupervised interaction with vulnerable populations. The Department of Justice is proposing to adopt this rule to meet the federal government requirement.

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

23.12.201 DEFINITIONS (1) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(1) through (4) remain the same, but are renumbered (2) through (5).

(6) "Qualified entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

AUTH: 44-5-105, MCA
IMP: 44-5-105, MCA

REASON: These two definitions are necessary to clarify their meaning as used in proposed NEW RULE I.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Anne Dormady, Department of

Justice, 2225 11th Avenue, Helena, Montana, 59601; telephone (406) 444-9759; fax (406) 444-0689; or e-mail adormady@mt.gov, and must be received no later than 5:00 p.m., October 20, 2023.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Anne Dormady at the above address no later than 5:00 p.m., October 20, 2023.

7. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 3,309 persons based on the number of background checks done last year.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at http://sosmt.gov/ARM/Register.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

12. These rule changes will not result in any fee changes to what the department is currently charging for criminal history background checks. The rule changes are simply memorializing what is already charged for this service. Last year, the department conducted 33,088 background checks for a fee of $30 per background check.

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ AUSTIN KNUDSEN
Austin Knudsen
Attorney General
Department of Justice

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 38.3.201, 38.3.702, 38.3.705, 38.3.706, 38.3.707, 38.3.805, 38.3.2001, and 38.3.2101 and the repeal of ARM 38.3.1303 pertaining to deregulation of Class C motor carriers in Montana's Motor Carrier Act	)	NOTICE OF PROPOSED AMENDMENT AND REPEAL NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Service Regulation proposes to amend and repeal the above-stated rules.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on October 10, 2023, to advise us of the nature of the accommodation that you need. Please contact the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601; telephone (800) 646-6150; fax (406) 444-7618; or e-mail pschelp@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

38.3.201 VEHICLE REGISTRATION FEE (1) Class A~~, C,~~ and D motor carriers must pay an annual per vehicle registration fee for which a registration receipt will be issued, a copy of which shall be carried in each vehicle at all times.

AUTH: 69-12-201, MCA
IMP: 69-12-106, 69-12-108, 69-12-201, 69-12-325, 69-12-326, 69-12-401, 69-12-407, 69-12-421, 69-12-423, 69-12-501, 69-12-503, 69-12-504, 69-12-611, 69-12-612, MCA

38.3.702 BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE (1) Every class A~~, C,~~ and D intrastate carrier must file with this commission evidence of complying with the minimum insurance requirements of this commission as applicable to bodily injury and property damage liability insurance.

(2) For the purposes of this subchapter, "bodily injury" shall include death.

(3) Every class E carrier must file with the commission evidence of compliance with the insurance requirements of 69-12-343, MCA.

AUTH: 69-12-201, MCA

IMP: 69-12-402, MCA

38.3.705 FORMS FOR CERTIFICATE OF INSURANCE (1) The following forms shall be utilized by the department and may be obtained from the commission:

(a) Form K. Uniform notice of cancellation of motor carrier insurance policies, stock form K.

(b) Form H. Uniform motor carrier cargo certificate of insurance.

(c) Form E. Uniform motor carrier bodily injury and property damage liability certificate of insurance for use by class A~~, C,~~ and D motor carriers.

(d) Form T. Uniform bodily injury and property damage liability certificate of insurance for use by class E transportation network carriers.

AUTH: 69-12-201, MCA
IMP: 69-12-402, MCA

38.3.706 ENDORSEMENTS (1) All insurance policies issued by the insurance company to the carrier must include, at time of issuance, the terms, conditions, and requirements set forth in this rule and repeated on endorsement forms approved by the commission and identified as "Endorsement MV4," "Endorsement MV2," and "Endorsement MV-TNC" available from the commission.

(2) The following terms, conditions, and requirements are deemed a substantive part of all policies issued, and are incorporated therein:

(a) Casualty (liability) insurance for class A~~, C,~~ and D carriers (Endorsement MV4) shall be issued in an amount no less than:

(i) $100,000 for 7 passengers or less;

(ii) $500,000 for 8 to 15 passengers;

(iii) $750,000 for 16 to 26 passengers;

(iv) except any class A motor carrier, other than as provided in (a)(i), operating under a certificate of public convenience and necessity or certificate of compliance authorizing passenger operations only within a particular city or 10-mile radius is required to carry a minimum of $500,000 insurance regardless of size of vehicle used;

(v) $100,000 for transportation of nonhazardous freight in a vehicle designed, equipped, and primarily intended for transportation of seven passengers or less or a vehicle of manufacturer's GVW rating of 10,000 pounds or less designed, equipped, and primarily intended for transportation of cargo;

(vi) $500,000 for transportation of nonhazardous freight for all other vehicles.

(b) Liability insurance for class E carriers (Endorsement MV-TNC) shall be issued as specified in 69-12-343, MCA.

(3) These endorsements must be executed, countersigned, and attached to the original policy when issued.

AUTH: 69-12-201, MCA
IMP: 69-12-402, MCA

38.3.707 MINIMUM LIMITS OF INSURANCE COVERAGE - BONDS UNACCEPTABLE (1) Minimum limits of insurance coverage for class A~~, C,~~ and D

carriers as required by this commission are outlined in Endorsement MV-4 and Endorsement MV-2.

(2) Minimum limits of insurance coverage for class E carriers are specified in 69-12-343, MCA and outlined in Endorsement MV-TNC.

(3) Bonds in lieu of insurance coverage are not acceptable for carriers.

AUTH: 69-12-201, MCA
IMP: 69-12-402, MCA

38.3.805 ANNUAL REPORTS (1) As required in 69-12-407, MCA, class A~~,~~ ~~C,~~ and D motor carriers operating within the state of Montana are required to submit annual reports to the commission. Annual report forms are available on the commission's web site.

(2) The annual report form represents the uniform system of accounts the commission is required to prescribe by 69-12-407, MCA.

AUTH: 69-12-201, MCA
IMP: 69-12-407, MCA

38.3.2001 LEASING OF POWER EQUIPMENT - GENERAL (1) The requirements for the leasing of power equipment by class A~~, C,~~ and D carriers operating within the state are as contained in 69-12-611, MCA.

(2) The purpose of these leasing regulations is to ~~insure~~ ensure that the primary responsibility for the conduct of regulated motor carrier operations remain with the certificated motor carrier, and that members of the public using motor carrier services are clearly advised of the identity of the responsible carrier, and that the leasing of equipment by an authorized motor carrier from the owner thereof, is not a subterfuge for leasing the carrier's certificate or permit to the owner-lessor.

(3) The leasing of power equipment by a certificated carrier to a noncertificated carrier is prohibited.

AUTH: 69-12-201, 69-12-204, MCA
IMP: 69-12-611, MCA

38.3.2101 SALE OR TRANSFER OF CERTIFICATE OF AUTHORITY

(1) As authorized by 69-12-325, MCA, public service commission certificates may be sold or transferred. The application for sale or transfer shall be addressed to the commission, be sworn to, and contain the following information:

(a) the name and address of the owner and the number of the certificate, together with request that authority be granted such owner to sell or transfer all rights, title and interest under such certificate to the named vendee or purchaser;

(b) the name and main office address of the vendee or purchaser, that such vendee or purchaser is desirous of acquiring Certificate No. _____, that the operations to be conducted thereunder will be in accordance with the rules and regulations of the commission, and should the vendee or purchaser be a legal corporation, the officers of such corporation and their addresses;

(c) a list of equipment the vendee or purchaser intends to operate under such certificate, giving the state license number, year and name of the vehicle, the serial number, and seating capacity thereof; (In case the vehicles are to be used in transporting property, the maximum load to be carried must also be shown.)

(d) state that the vendee or purchaser will furnish before beginning operation, insurance, surety bond, or other approved security, covering all vehicles to be operated;

(e) if the vendee or purchaser desires to adopt the tariffs and time schedules, etc., of the vendor on file with the commission, it shall here so be stated and reference to each of such publications by number and effective date must be made; ~~(Does not apply to class C carriers.)~~

(f) in case the vendee or purchaser does not desire to adopt the tariffs, time schedules, etc., of the vendor, it shall be so stated;

(g) in case the vendee or purchaser consists of more than one person (not incorporated) operating as a co-partnership under a trade name, then this item shall state that a certified copy of such partnership agreement is attached;

(h) shall set out the date on which it is desired that such sale or transfer shall become effective; no sale or transfer being retroactive, or effective until approved by the commission;

(i) shall state that the original certificate is attached, but if the original certificate issued by this commission has been lost, a statement showing the facts shall be inserted under this item or a separate affidavit reciting the loss of the certificate and accompanying the application;

(j) shall set forth that the sale or transfer is not for purpose of hindering, delaying or defrauding creditors;

(k) shall be accompanied by the vendee or purchaser's current financial balance sheet setting forth the assets, liabilities, and equity of the transferee, if the purchaser is in motor carrier transportation business, then the vendee's or purchaser's current financial income statement setting forth operating revenues, operating expenses, and net operating income of the transferee if said transferee is presently in the motor carrier transportation business; and

(l) shall be signed by the owner and the purchaser and notarized.

(m) Forms for applications for sale or transfer are available on the commission's web site or upon request.

(2) It is required that full compliance and completion of sales and transfers be consummated within 30 days after the mailing of the notice of the commission's approval or suffer the revocation of such right to the certificate by the commission.

AUTH: 69-12-201, MCA
IMP: 69-12-325, MCA

REASON: First, the Department of Public Service Regulation proposes to amend the above-listed rules to remove all references to Class C motor carriers, which are no longer regulated by the department. The 68th Montana State Legislature removed the ″Class C″ category of motor carriers from Montana′s motor carrier statutes (MCA Title 69, chapter 12) upon passage and approval of Senate Bill 33, an

Act Eliminating Class C Motor Carrier Classification and Regulations of a Class C Motor Carrier by the Public Service Commission (enacted May 4, 2023).

Second, the department proposes to amend ARM 38.3.2001(2) by changing the verb ″insure″ (primarily meaning to obtain insurance) to ″ensure″ (meaning to make certain). This change clarifies the purposes of leasing regulations for motor carriers that are listed in the rule.

4. The department proposes to repeal the following rule:

38.3.1303 CLASS C CARRIER CONTRACTS -- REQUIRED PROVISIONS, SUMMARY

AUTH: 69-12-201, MCA
IMP: 69-12-301, 69-12-302, 69-12-313, MCA

REASON: The Department of Public Service Regulation proposes to repeal ARM 38.3.1303, because this rule deals exclusively with ″Class C″ motor carriers, which are no longer regulated by the department. The 68th Montana State Legislature removed the ″Class C″ category from Montana′s motor carrier statutes (MCA Title 69, chapter 12) upon passage and approval of Senate Bill 33, An Act Eliminating Class C Motor Carrier Classification and Regulations of a Class C Motor Carrier by the Public Service Commission (enacted May 4, 2023).

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT, 59620-2601; telephone (406) 800-646-6150; fax (406) 444-7618; or e-mail pschelp@mt.gov, and must be received no later than 5:00 p.m., on October 20, 2023. Please reference Docket No. 2023.05.038 when submitting a comment.

6. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

7. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4 persons based on 35 Class C Motor Carriers.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name and email address added to the list shall contact the Department of

Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601, by phone to: 800-646-6150, by fax to: (406) 444-7618, emailed to pschelp@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at http://sosmt.gov/ARM/Register.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by telephone and email on August 22, 2023.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ LAURA VACHOWSKI
Laura Vachowski
Rule Reviewer

/s/ JAMES BROWN
James Brown
President
Public Service Commission

Certified to the Secretary of State September 12, 2023.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I pertaining to third-party testing of voting systems	)))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION

TO: All Concerned Persons

1. On October 16, 2023, at 11:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 9, 2023, to advise of the nature of the accommodation needed. Please contact Sue Ames, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-2807; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or email sames@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I VOTING SYSTEM TESTING (1) Pursuant to 13-17-103, MCA, a voting system must be tested by a third-party tester to be free of any modems or other unauthorized external communication devices before its first use in an election and as requested by a county for voting systems in the county's possession and use. The third-party tester must not be an employee of the voting system manufacturer and must be trained and currently certified by the manufacturer as a maintenance technician for the voting system being tested. The voting system manufacturer must provide a current list of certified maintenance technicians to the Secretary of State's Office.

(2) The test referenced in (1) must be a physical examination of the voting system in which the hardware components of the voting system are compared to the diagram of the voting system retained and approved by the Secretary of State's Office.

(3) The third-party tester must provide a report of the test to the county election administrator and to the Secretary of State's Office on a form approved by the Secretary of State's Office. The test report must be maintained by the county election administrator according to the local government records retention schedule.

(4) A voting system that does not conform to the diagram retained and approved by the Secretary of State's Office must not be used for any election.

(5) The county election administrator must be present and ensure the chain of custody of the voting system is documented throughout the testing process.

(6) The county election administrator must ensure the voting system is performing properly before and after the test.

(7) As used in this rule, the term "employee" does not include an independent contractor, individuals hired by an independent contractor, or a subcontractor.

AUTH: 13-17-103, MCA
IMP: 13-17-103, MCA

REASONABLE NECESSITY: On April 19, 2023, the Governor of Montana signed into law House Bill (HB) 173. HB 173 required the Secretary of State to adopt rules defining approved third-party testers and the testing process for voting systems to validate manufacturers' certifications that voting systems are free of any modems or other unauthorized external communication devices.

The Office of the Secretary of State is proposing NEW RULE I to fulfill the requirements of the new law. NEW RULE I defines approved third-party testers by identifying the requirements a third-party tester must meet. It also proposes the testing process to allow voting systems to be disassembled, if applicable, and establishes a process to detect modems or other unauthorized communication devices by comparing to diagrams of authorized voting system components.

NEW RULE I is proposed to ensure test results are documented, and the county election administrator and the Secretary of State's Office are notified of test results. The proposed rule prohibits voting systems that fail the test from being used in any election to protect the security and integrity of the election process. The proposed rule also acknowledges that the chain of custody requirements apply during this new voting system test. It also requires county election administrators to verify the system is performing properly before and after the test to ensure the voting systems were not damaged as a result of the testing process.

4. With regard to the requirements of 2-4-302(1)(c), MCA, it has been determined that this proposed rule will not have a fiscal impact.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing angela.nunn@mt.gov, and must be received no later than 5:00 p.m., October 20, 2023.

6. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of

State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

8. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Representative David Bedey, was contacted by phone on August 10, 2023, and by email on September 1, 2023.

9. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Austin Markus James
Austin Markus James
Rule Reviewer

/s/ Christi Jacobsen
Christi Jacobsen
Secretary of State

Dated this 12th day of September, 2023.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE
STATE OF MONTANA

In the matter of the amendment of ARM 6.6.8001 Classification Review Committee Agency Organization, 6.6.8202 administrative appeal of a classification decision, 6.6.8206 telephone and electronic hearings, and 6.6.8301 establishment, deletion, or revision of classifications for various industries for supplementing the NCCI Basic Manual for Workers' Compensation and Employers Liability	)	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On August 4, 2023, the Classification Review Committee published MAR Notice No. 6-279 pertaining to the proposed amendment of the above-stated rules at page 724 of the 2023 Montana Administrative Register, Issue Number 15.

2. A public hearing was not contemplated or requested. The department received no comments or testimony on the proposed amendments.

3. The committee has amended the above-stated rules as proposed.

/s/ Mark Mattioli
Mark Mattioli
Rule Reviewer

/s/ Greg Rodifer
Greg Rodifer
Committee Chair

Certified to the Secretary of State September 12, 2023.

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULES I through VI pertaining to Montana Indian Language Preservation Grants	))))	NOTICE OF ADOPTION

TO: All Concerned Persons

1. On July 21, 2023, the Superintendent of Public Instruction published MAR Notice No. 10-75-101 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 681 of the 2023 Montana Administrative Register, Issue Number 14.

2. The superintendent has adopted the following rules as proposed: NEW RULE I (10.75.101) NEW RULE II (10.75.102), NEW RULE IV (10.75.104), NEW RULE V (10.75.105), and NEW RULE VI (10.75.106).

3. The superintendent has adopted the following rule as proposed, but with the following changes from the original proposal, with deleted matter interlined:

NEW RULE III (10.75.103) PROGRAM (1) through (6) remain as proposed.

~~(7) Funds may not be used to pay for any of the following activities or costs:~~

~~(a) operational or maintenance costs or expenses;~~

~~(b) financial expenses including, but not limited to, interest expense, bond issuance costs, or any other debt-related costs or expenses;~~

~~(c) projects receiving funding for the same services, equipment, or goods through any other local, state, or federal grant or other funding program, except as necessary to fully fund the project; and~~

~~(d) projects involving a casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or similar programs not directly related to Indian language preservation.~~

(8) through (11) remain as proposed but are renumbered (7) through (10).

~~(12) The total administrative fee that may be charged to the grant by the grantee may not exceed 5% of the total grant award for administration of the contract.~~

~~(13) The total personnel budget (salary and fringe benefits) may not exceed 45% of the total grant award.~~

4. The superintendent has thoroughly considered the comments and testimony received. A summary of the comments and testimony received and the superintendent's responses are as follows:

COMMENT #1: A commenter expressed concern that only up to 45% of Montana Indian Language Preservation (MILP) grant funds could go towards the personnel

budget and also expressed concern about the administrative costs for the program. The commenter was concerned about the lack of flexibility this created for tribes.

RESPONSE #1: The superintendent appreciates the comment. The superintendent agrees with the desire to maximize flexibility related to the spending of these funds. The superintendent agrees to strike New Rule III(12) and (13).

COMMENT #2: A commenter expressed concern about the possibility of inclusion of tribal colleges for work done under MILP.

RESPONSE #2: The superintendent appreciates the comment. The Office of Public Instruction (OPI) understands the comment is in reference to NEW RULE IV(2)(e). In the pursuit of recognizing tribal sovereignty and allowing tribes to leverage their assets, the superintendent supports tribal governments having the option to work with their tribal colleges, language and culture departments, or other committees that are engaged in language and culture work and are endorsed by their tribal governments. OPI consulted with tribes regarding the inclusion of tribal colleges during a July 6, 2023, tribal consultation meeting and during ongoing meetings with tribal leaders.

COMMENT #3: A commenter expressed concern about non-tribal schools not being eligible for funding, even when they have Indian language teachers.

RESPONSE #3: The superintendent appreciates the comment. OPI understands this comment is in reference to New Rule III(1). HB 287 specifically required that funds be distributed to tribal governments, which may partner with school districts at the tribal government's discretion.

COMMENT #4: A commenter was concerned with the proposed rule specifically identifying golf courses and other similar programs as examples of ineligible uses of funds, which were not specifically mentioned in HB 287.

RESPONSE #4: The superintendent appreciates the comment. The superintendent believes eligible uses of funds must be included in the rule, and they are included in New Rule III(8). In light of the specifically identified eligible uses, there is no need to specifically identify ineligible uses. As a result, the superintendent agrees to strike New Rule III(7).

COMMENT #5: A commenter was concerned about how tribes, schools, and students create fluency opportunities and language acquisition opportunities, and within what timeframe these opportunities will be created.

RESPONSE #5: The superintendent appreciates the comment. OPI has engaged in multiple discussions with tribal communities regarding teaching opportunities for Indian languages. The superintendent agrees that where an established partnership exists between tribes and school districts, educators who serve as language and

culture specialists for the schools must adhere to the guidelines established by the tribes they partner with for the languages they teach.

COMMENT #6: A commenter was concerned with the low number of tribes represented at the public hearing on the proposed rules.

RESPONSE #6: The superintendent appreciates the comment as transparency and public participation are priorities for her administration. Prior to the public hearing, OPI consulted with tribes as required by HB 287. Further consultation remains ongoing between OPI and tribes after the public hearing. Specific information about the public hearing and the public comment period was shared with tribal leaders, and OPI received written public comment from numerous individuals interested in the Indian language preservation programs.

COMMENT #7: Multiple commenters expressed support for the proposed changes.

RESPONSE #7: OPI appreciates the comments and the support.

/s/ Robert Stutz
Robert Stutz
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen
Superintendent of Public Instruction
Office of Public Instruction

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I, the amendment of ARM 23.3.502 and 23.3.524, and the repeal of ARM 23.3.519 pertaining to licensing operations of commercial motor vehicles	))))))	NOTICE OF ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On August 4, 2023, the Department of Justice published MAR Notice No. 23-3-273 pertaining to the proposed adoption, amendment, and repeal of the above-stated rules at page 728 of the 2023 Montana Administrative Register, Issue Number 15.

2. The department has amended the above-stated rules as proposed.

3. The department has repealed the above-stated rule as proposed.

4. The department has adopted the above-stated rule as proposed: NEW RULE I (23.3.525).

5. No comments or testimony were received.

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ AUSTIN KNUDSEN
Austin Knudsen
Attorney General
Department of Justice

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the transfer of ARM Title 23, chapter 12, subchapters 12, 13, and 14 pertaining to the Montana Law Enforcement Academy	))))	NOTICE OF TRANSFER

TO: All Concerned Persons

1. The Department of Justice transfers the above-stated rules to ARM Title 23, chapter 17, subchapters 4, 5, and 6.

2. This transfer is required because the Department of Justice has transferred the administrative function and responsibilities of the program from the Department of Justice's Division of Criminal Investigation to its own freestanding bureau within the department.

3. The transferred rules are assigned the following numbers under ARM Title 23, chapter 17:

OLD	NEW	
23.12.1201	23.17.401	REQUIREMENTS FOR PEACE OFFICERS AND PUBLIC SAFETY OFFICERS TO ATTEND BASIC PROGRAMS
23.12.1203	23.17.403	BASIC COURSE ATTENDANCE REQUIREMENTS FOR PRESERVICE APPLICANTS
23.12.1204	23.17.404	MINIMUM QUALIFICATIONS FOR PRESERVICE TESTING AND PRETEST SCREENING
23.12.1205	23.17.405	PRESERVICE TESTING PROCEDURES
23.12.1206	23.17.406	PRESERVICE TEST SCREENING PROCEDURES
23.12.1207	23.17.407	RANKING OF PRESERVICE APPLICANTS FOR ELIGIBILITY TO ATTEND THE BASIC COURSE
23.12.1208	23.17.408	PROCEDURES FOR REGISTRATION, ATTENDANCE, AND FEES FOR PRESERVICE APPLICANTS
23.12.1301	23.17.501	RULES OF CONDUCT FOR STUDENTS ATTENDING PROGRAMS UPON THE MONTANA LAW ENFORCEMENT ACADEMY CAMPUS
23.12.1411	23.17.611	STUDENT ACADEMIC PERFORMANCE REQUIREMENTS FOR MONTANA LAW ENFORCEMENT ACADEMY COURSES
23.12.1412	23.17.612	OTHER STUDENT PERFORMANCE MEASURES
23.12.1413	23.17.613	MONTANA LAW ENFORCEMENT ACADEMY FIREARMS PERFORMANCE REQUIREMENTS FOR THE LAW ENFORCEMENT OFFICER BASIC COURSE

23.12.1414	23.17.614	PHYSICAL ABILITIES PERFORMANCE REQUIREMENT FOR THE LAW ENFORCEMENT OFFICER BASIC COURSE
23.12.1416	23.17.615	BASIC COURSE ACHIEVEMENT AWARDS

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ AUSTIN KNUDSEN
Austin Knudsen
Attorney General
Department of Justice

Certified to the Secretary of State September 12, 2023.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.101.413 pertaining to renewal dates and requirements	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On August 4, 2023, the Department of Labor and Industry (agency) published MAR Notice No. 24-101-406 regarding the public hearing on the proposed changes to the above-stated rule, at page 733 of the 2023 Montana Administrative Register, Issue No. 15.

2. On August 25, 2023, a public hearing was held on the proposed changes to the above-stated rule via the videoconference and telephonic platform. No comments were received by the deadline.

3. The agency has amended ARM 24.101.413 as proposed, effective October 1, 2023.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 12, 2023.

BEFORE THE ALTERNATIVE HEALTH CARE BOARD
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.111.401, 24.111.402, 24.111.403, and 24.111.2301, the amendment and transfer of ARM 24.156.1408, 24.156.1409, and 24.156.1410, the transfer of ARM 24.156.1403 and 24.156.1416, the adoption of New Rules I and II, and the repeal of ARM 24.111.412, 24.111.2105, 24.111.2401, 24.111.2402, and 24.156.1406 pertaining to acupuncturist licensing	))))))))))))	NOTICE OF AMENDMENT, AMENDMENT AND TRANSFER, TRANSFER, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On August 4, 2023, the Alternative Health Care Board (agency) published MAR Notice No. 24-111-29 regarding the public hearing on the proposed changes to the above-stated rules, at page 738 of the 2023 Montana Administrative Register, Issue No. 15.

2. On August 25, 2023, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. Comments were received by the deadline.

3. The agency has thoroughly considered the comments received. A summary of the comments and the agency responses are as follows:

COMMENT 1: Several commenters noted their approval of the rules as drafted.

RESPONSE 1: The comments are acknowledged, and the commenters are thanked for their comments.

4. The agency has amended ARM 24.111.401, 24.111.402, 24.111.403, and 24.111.2301 as proposed.

5. The agency has amended and transferred ARM 24.156.1408 (24.111.815), 24.156.1409 (24.111.817), and 24.156.1410 (24.111.819) as proposed.

6. The agency has transferred without amendment ARM 24.156.1403 (24.111.801) and 24.156.1416 (24.111.807).

7. The agency has adopted New Rule I (24.111.2305) and New Rule II (24.111.415) as proposed.

8. The agency has repealed ARM 24.111.412, 24.111.2105, 24.111.2401, 24.111.2402, and 24.156.1406 as proposed.

9. All amendments, adoptions, transfers, and repeals set forth in this notice are effective October 1, 2023.

ALTERNATIVE HEALTH CARE BOARD
ALISUN BONVILLE, ND,
PRESIDING OFFICER

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 12, 2023.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.207.401 and 24.207.502, the adoption of NEW RULE I, and the repeal of ARM 24.207.408 pertaining to fees and the practical application of real estate appraisal	))))))	NOTICE OF AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On August 4, 2023, the Board of Real Estate Appraisers (agency) published MAR Notice No. 24-207-47, regarding the public hearing on the proposed changes to the above-stated rules, at page 754 of the 2023 Montana Administrative Register, Issue No. 15.

2. On August 30, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. No comments were received by the deadline.

3. The agency has amended ARM 24.207.401 and 24.207.502 as proposed.

4. The agency has adopted NEW RULE I (24.207.2315) as proposed.

5. The agency has repealed ARM 24.207.408 as proposed.

BOARD OF REAL ESTATE APPRAISERS
GREGORY THORNQUIST, CERTIFIED GENERAL APPRAISER, PRESIDING OFFICER

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 12, 2023.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known Subject

1. Consult ARM Topical Index.
   Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2023. This table includes notices in which those rules adopted during the period March 24, 2023, through September 8, 2023, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2023, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2023 Montana Administrative Register.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in August 2023 appear. Potential vacancies from October 1, 2023 through October 31, 2023, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of September 1, 2023.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
9-1-1 Advisory Council			
Mr. Alan Doane	Governor	Kristin Hansen	8/1/2023
Helena			9/1/2025
Qualifications (if required): Attorney General's Representative			
Community Choice School Commission			
Ms. Cathy Kincheloe	Governor	New	8/18/2023
Whitefish			7/1/2027
Qualifications (if required): Public Member			
Ms. Patricia Schreiber	Governor	New	8/18/2023
Helena			7/1/2027
Qualifications (if required): Public Member			
Future Fisheries Review Panel			
Ms. Karin Boyd	Governor	Reappointed	8/21/2023
Bozeman			7/1/2025
Qualifications (if required): Geomorphologist			
Mr. David Cope	Governor	Reappointed	8/21/2023
Ennis			7/1/2025
Qualifications (if required): Licensed Angler			

EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
Future Fisheries Review Panel Cont.			
Mr. Michael Johns Bozeman Qualifications (if required): Licensed Angler	Governor	Reappointed	8/21/2023 7/1/2025
Mr. Richard Lane Missoula Qualifications (if required): Silviculturist	Governor	Reappointed	8/21/2023 7/1/2025
Mr. Mike Newton Glendive Qualifications (if required): Fisheries Expert	Governor	Reappointed	8/21/2023 7/1/2025
Mr. Clint Peck Billings Qualifications (if required): Conservation District Representative	Governor	New	8/21/2023 7/1/2025
Mr. Ronald Pierce Lolo Qualifications (if required): Private Sector Representative	Governor	Reappointed	8/21/2023 7/1/2025
Mr. William Semmens Helena Qualifications (if required): DOT - Ex-Officio Representative	Governor	Reappointed	8/21/2023 7/1/2025

EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
Public Safety Communications System Advisory Council			
Mr. Alan Doane	Governor	Kristin Hansen	8/1/2023
Helena			6/30/2025
Qualifications (if required): Attorney General's Representative			
Public Safety Officer Standards and Training Council (POST)			
Mr. Jim Anderson	Governor	Reappointed	8/14/2023
Helena			1/1/2027
Qualifications (if required): Department of Corrections Representative			
Ms. Shellie Brady	Governor	Mike McCarthy	8/14/2023
Bozeman			1/1/2027
Qualifications (if required): Public Member			
Mr. Jess Edwards	Governor	Reappointed	8/14/2023
Browning			1/1/2027
Qualifications (if required): Montana-certified tribal law enforcement rep			
Mr. Wyatt Glade	Governor	Reappointed	8/14/2023
Miles City			1/1/2027
Qualifications (if required): Member of Montana Board of Crime Control			

EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
Public Safety Officer Standards and Training Council (POST) Cont.			
Mr. Anthony Hutchings	Governor	Matthew Sayler	8/14/2023
Manhattan			1/1/2027
Qualifications (if required): Law Enforcement Rep			
Mr. Mark Kraft	Governor	Reappointed	8/14/2023
Sidney			1/1/2027
Qualifications (if required): Chief of Police			
Ms. C. Kristine White	Governor	Reappointed	8/14/2023
Forsyth			1/1/2027
Qualifications (if required): County Attorney			
State Rehabilitation Council			
Ms. Shandra Bell	Governor	New	8/14/2023
Missoula			10/1/2026
Qualifications (if required): Advocacy Community Representative			
State Sports Wagering Commission			
Representative Janna Taylor	Governor	Dwaine Iverson	8/1/2023
Dayton			12/31/2024
Qualifications (if required): Public Member			

EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
Statewide Independent Living Council			
Ms. Hannah Thompson Missoula Qualifications (if required): Advocacy Community	Governor	New	8/14/2023 12/1/2026
Ms. Julie Williams Livingston Qualifications (if required): State Agency providing services for individuals with disabilities	Governor	Molly Kummel	8/14/2023 11/30/2024
Transportation Commission			
Mr. Noel Sansaver Wolf Point Qualifications (if required): District 4 Representative	Governor	Reappointed	8/14/2023 1/1/2027
Kody Swartz Missoula Qualifications (if required): District 1 Representative	Governor	Tammi Fisher	8/14/2023 1/1/2027

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
Board of Athletic Trainers		
Mr. John Curtis Weida, Missoula Qualifications (if required): Athletic Trainer	Governor	10/1/2023
Dr. Calvin Schlepp, Helena Qualifications (if required): Physician	Governor	10/1/2023
Board of Barbers and Cosmetologists		
Ms. Katie Fontana, Great Falls Qualifications (if required): Member of the public	Governor	10/1/2023
Mrs. Sarah Ludtke-Heagle, Helena Qualifications (if required): Cosmetologist	Governor	10/1/2023
Mrs. Barbara Jenkins, Kalispell Qualifications (if required): Barber	Governor	10/1/2023
Board of Outfitters		
Representative Tom Facey, Missoula Qualifications (if required): Sportsperson	Governor	10/1/2023
Mr. Wagner Harmon, Bainville Qualifications (if required): None stated	Governor	10/1/2023

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
Board of Outfitters Cont.		
Mr. John Way, Ennis	Governor	10/1/2023
Qualifications (if required): Outfitter licensed to provide fishing and hunting services		
Ms. Kathy Hadley, Anaconda	Governor	10/1/2023
Qualifications (if required): Sportsperson		
Ms. Marcia Brownlee, Missoula	Governor	10/1/2023
Qualifications (if required): Member of the general public		
Mr. Chris Gentry, Ennis	Governor	10/1/2023
Qualifications (if required): None stated		
Historical Preservation Review Board		
Ms. Patricia Casne, Helena	Governor	10/1/2023
Qualifications (if required): Member of the public		
Mr. Nicholas Alexander Kujawa, Missoula	Governor	10/1/2023
Qualifications (if required): Member of the public		
Mrs. Kelly Anne Elizabeth Terry, Lewistown	Governor	10/1/2023
Qualifications (if required): Member of the public		
State Emergency Response Commission		
Chief Thomas Kuntz, Red Lodge	Governor	10/1/2023
Qualifications (if required): Representative of a Fire Services Association		

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
State Emergency Response Commission Cont.		
Mr. Jim Murphy, Helena	Governor	10/1/2023
Qualifications (if required): Representative of DPHHS		
Mr. Ron Jendro, Helena	Governor	10/1/2023
Qualifications (if required): Representative of the Department of Fish, Wildlife and Parks		
Mr. Scott Sanders, Belgrade	Governor	10/1/2023
Qualifications (if required): Representative of an emergency medical services association		
Mrs. Michelle L. Slyder, Billings	Governor	10/1/2023
Qualifications (if required): Representative of the Montana's petroleum industry		
Mr. Anthony Bacino, Missoula	Governor	10/1/2023
Qualifications (if required): Representative of a railroad company doing business in Montana		
Mr. Gregory Thomas Doyon, Great Falls	Governor	10/1/2023
Qualifications (if required): Representative of the Montana League of Cities and Towns		
Mr. John Culbertson, Great Falls	Governor	10/1/2023
Qualifications (if required): Representative of the Fire Services Training School		
Mr. Raphael Graybill, Helena	Governor	10/1/2023
Qualifications (if required): Representative of the Governor's Office		
Major Jeffrey Alan Holycross, Helena	Governor	10/1/2023
Qualifications (if required): National Guard Representative		

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
State Emergency Response Commission Cont.		
Mrs. Georgia Bruski, Ekalaka	Governor	10/1/2023
Qualifications (if required): Representative of an emergency management association		
Col. Tom Butler, Helena	Governor	10/1/2023
Qualifications (if required): Representative of Montana Department of Justice		
Mr. Donald W. Britton, Great Falls	Governor	10/1/2023
Qualifications (if required): Representative of the National Weather Service		
Ms. Delila Bruno, Helena	Governor	10/1/2023
Qualifications (if required): Co-Presiding Officer and Representative of the Dept. of Military Affairs		
Ms. Shari Graham, Helena	Governor	10/1/2023
Qualifications (if required): Representative of The Emergency Medical Services		
Mr. Danny Kaluza, Butte	Governor	10/1/2023
Qualifications (if required): Representative of a Utility Company		
Mrs. Michelle Marie Kimball, Kalispell	Governor	10/1/2023
Qualifications (if required): Representative of Montana hospitals		
Ms. Susan McEachern, Helena	Governor	10/1/2023
Qualifications (if required): Representative of the Department of Transportation		
Commissioner Mike McGinley, Dillon	Governor	10/1/2023
Qualifications (if required): Representative of Montana Association of Counties		

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
State Emergency Response Commission Cont.		
Mr. John Monzie, Helena	Governor	10/1/2023
Qualifications (if required): DNRC Representative		
Mr. Todd Michael Mulcahy, Helena	Governor	10/1/2023
Qualifications (if required): Representative of a trucking association		
Ms. Maleen Olson, Helena	Governor	10/1/2023
Qualifications (if required): Representative of Montana's insurance industry		
Mr. John Rasmann, Helena	Governor	10/1/2023
Qualifications (if required): Representative of the Department of Environmental Quality		
Ms. Hayley Tuggle, Bozeman	Governor	10/1/2023
Qualifications (if required): University Representative		
Mr. Brian L. Wilkinson, Malmstrom Air Force Base	Governor	10/1/2023
Qualifications (if required): Representative of the Air Force		
Ms. Chelsi Bay, Helena	Governor	10/1/2023
Qualifications (if required): Representative of the Department of Agriculture		
Mr. Daniel Smith, Great Falls	Governor	10/1/2023
Qualifications (if required): Representative of a Law Enforcement Organization		

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
State Rehabilitation Council		
Ms. Denise May, Missoula	Governor	10/1/2023
Qualifications (if required): Representative of individuals with disabilities		
Mr. Scott Eychner, Helena	Governor	10/1/2023
Qualifications (if required): State Workforce Innovation Board Representative		
Ms. Chanda Hermanson, Helena	Governor	10/1/2023
Qualifications (if required): DPHHS DETD Division Administrator		
Ms. Renea C. Keough, Hot Springs	Governor	10/1/2023
Qualifications (if required): Representative of individuals with disabilities		
Ms. Elizabeth Kraugh, Missoula	Governor	10/1/2023
Qualifications (if required): Current or former applicant and recipient of vocational rehabilitation services		
Ms. Michele Letendre, Bozeman	Governor	10/1/2023
Qualifications (if required): Representative of individuals who have disabilities		
Ms. Cheri Reed, Miles City	Governor	10/1/2023
Qualifications (if required): Vocational Rehabilitation Counselor		
Mr. Marvin Weatherwax Sr., Browning	Governor	10/1/2023
Qualifications (if required): Tribal Vocational Rehabilitation Director		
Mrs. Emma Rooney, Helena	Governor	10/1/2023
Qualifications (if required): Business, Industry, and/or Labor Organization Representative		

EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2023 THROUGH OCTOBER 31, 2023

Board/Current Position Holder	Appointed By	Term End
State Rehabilitation Council Cont.		
Dr. Thomas Manthey, Billings	Governor	10/1/2023
Qualifications (if required): Representative of individuals with disabilities		
Water and Wastewater Operators' Advisory Council		
Mr. Craig Woolard, Bozeman	Governor	10/1/2023
Qualifications (if required): Faculty of a university or college		
Dr. Eleazer P. Resurreccion, Havre	Governor	10/1/2023
Qualifications (if required): Faculty of a university or college whose major field is related to water supply		

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